

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAMON L. ESPINOZA,

Plaintiff,

v.

RICK MROCZEK, *et al.*,

Defendants.

Case No. 2:23-cv-00228-TLN-JDP (PS)

FINDINGS AND RECOMMENDATIONS

THAT THE ACTION BE DISMISSED FOR
FAILURE TO STATE A CLAIM

OBJECTIONS DUE WITHIN FOURTEEN
DAYS

On January 17, 2024, I recommended that defendants' motion to dismiss be granted and plaintiff's first amended complaint be dismissed with leave to amend. ECF No. 21. On February 20, 2024, the court adopted the findings and recommendations, dismissed the amended complaint for failure to state a claim, and granted plaintiff thirty days to file a second amended complaint. ECF No. 22. Plaintiff failed to timely file an amended complaint. Accordingly, on April 30, 2024, I ordered him to show cause within fourteen days why this action should not be dismissed. ECF No. 23. I notified him that if he wished to continue with this lawsuit, he must file an amended complaint. I also warned plaintiff that failure to comply with the April 30, 2024 order would result in a recommendation that this action be dismissed. *Id.*

The deadline has passed, and plaintiff has neither filed a second amended complaint nor otherwise responded to the April 30, 2024 order. Accordingly, it is hereby RECOMMENDED that:

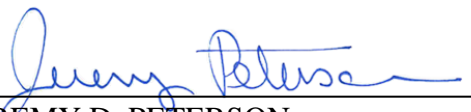
1 1. This action be dismissed for failure to state a claim for the reasons set forth in the
2 January 17, 2024 findings and recommendations.

3 2. The Clerk of Court be directed to close the case.

4 These findings and recommendations are submitted to the United States District Judge
5 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
6 after being served with these findings and recommendations, any party may file written
7 objections with the court and serve a copy on all parties. Such a document should be captioned
8 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
9 objections shall be served and filed within fourteen days after service of the objections. The
10 parties are advised that failure to file objections within the specified time may waive the right to
11 appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
12 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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14 IT IS SO ORDERED.

15 Dated: May 29, 2024

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17 JEREMY D. PETERSON
18 UNITED STATES MAGISTRATE JUDGE
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